

Agreement made as of the *6th* day of *June*, 2007 by and between Beverly Carter and Frederick A. Terry, Jr., as Executors of the Will of Paul Mellon, deceased (the "Executors"), and The Board of Supervisors of Fauquier County (the "Board") on behalf of the Fauquier County Parks and Recreation Department ("Parks & Recreation").

RECITALS

WHEREAS, the Executors and the Board were parties to a Conditional Distribution Agreement dated March 1, 2002 (the "Prior Agreement") pursuant to which the Executors made a discretionary distribution to the Board in the amount of \$10,000,000 (together with any additional amounts heretofore or hereafter distributed by the Executors to the Board, the "Distribution") to be used to develop a community park and sports fields (the "Project") on an 88.6725 acre tract of land adjacent to Virginia State Route 55 in Fauquier County (the "Site"); and

WHEREAS, under the Prior Agreement the Board agreed to develop the Project in accordance with a specified plan (the "Original Plan") within two years of its receipt of the Distribution; and

WHEREAS, the Original Plan has been modified substantially; and

WHEREAS, the Executors and the Board intend this Agreement to supercede and replace the Prior Agreement in its entirety;

NOW, THEREFORE, the Executors and the Board hereby agree as follows:

1. The Board is developing a community park and sports fields (the "Facility") on the Site substantially in accordance with the plan dated January 2007 and

the landscaping and park amenities plan dated May 1, 2007 (collectively, the "Plan"), copies of which have been delivered to and acknowledged by the Executors and the Board. The Board will not revise the Plan in any material respect without the prior written consent of the Executors or their representative, Earth Design Associates, Inc. ("EDA").

2. The Board agrees that EDA will continue to participate in the planning and oversight of all phases of the development of the Facility.

3. The Board will apply the current balance of the Distribution to the development of the Facility in accordance with the Plan and the terms of this Agreement. The Executors will distribute to the Board an additional sum of \$3,500,000 to be added to the Distribution and to be used to complete the Facility. The Distribution will be expended from time to time against requests submitted by the Board to EDA after such requests have been approved by EDA. The Board will be responsible for providing from its own funds, or from such other sources as may be available to it, any amounts required to complete the Facility that are not available from the Distribution.

4. Following the completion of the Facility and the Executors' approval thereof, the Executors will distribute a further sum of \$500,000 to the Board. Any amount thereof not required for the payment of expenses for the development of the Facility, or for the reimbursement of the Board for the payment thereof, shall be deposited in a separate interest-bearing account, which, together with any income earned thereon, shall be used only for such major repairs and capital improvements at the Facility as shall have been approved by the Executors or their successors.

5. So long as either of the Executors or any successor Executor shall be available, the Board shall provide the Executors with an annual accounting describing all receipts and disbursements (including funds encumbered but not yet spent) of the Distribution. Annually, or more frequently at the request of either Executor or a successor Executor, the Board shall demonstrate on a basis satisfactory to the Executors that the Board continues to comply with all terms of this Agreement.

6. (a) The Board shall maintain the Facility in perpetuity as a family-oriented park and sports complex for the residents of Fauquier County to use and enjoy. The Board shall be responsible for the upkeep of the Facility in accordance with a maintenance manual and plan prepared by EDA.

(b) The Board shall not cause or permit any structures or other capital improvements to be constructed on or added to the Facility except with the written consent of the Executors or of any successor Executor.

(c) No commercial signs or billboards, including signs identifying sponsors of teams using the sports fields, shall be permitted anywhere in the Facility, provided, however, that the Board may permit logos of the producers or purveyors of goods sold at concession stands to be displayed unobtrusively.

(d) The sports fields shall not be used after sundown. The sports fields shall not be lighted.

(e) The Board or Parks & Recreation may charge reasonable fees for the scheduled use of the sports fields by leagues or other organizations and for the

operation of concessions, provided that any such fees shall be used only for the maintenance, operation, and upkeep of the Facility.

(f) The parking lots and pathways in the Facility may be lighted only in accordance with the Plan. Any such lighting shall be source shielded low-level lighting.

7. The Board represents that the Lease, Development and Operation Agreement dated February 5, 2002 between the Board and Fauquier Youth Sports Coordination Council, Inc. has terminated in accordance with its terms and has not been extended, renewed, or replaced. The Board may delegate to third parties the operation of concessions and the scheduling of use of the sports fields, provided that the Board, directly or through Parks & Recreation, at all times retains unencumbered title to, and overall control and supervision of, the Facility.

8. The Board will cause the Distribution from the Estate of Paul Mellon to be acknowledged on an appropriate plaque or other fixture of such size and style, expressed in such terms, and placed at such location at the Facility as the Board and the Executors jointly determine.

9. Within four years of the date of this Agreement the Board shall fund and develop an aquatic facility at the Marshall Community Center similar to the one that was built at Vint Hill in 2002.

10. The Executors, upon written notice to the Board of its default and the expiration of a thirty (30) days' opportunity to cure any such default, shall have all rights and remedies available under the laws of the Commonwealth of Virginia, including the

right to recover the unexpended portion of the Distribution (including any portion thereof that has been encumbered but is not unconditionally required by law to be applied to a particular contract). The Board agrees that the Executors and, if neither of them nor any successor Executor shall be available, the Attorney General of Virginia shall be entitled to enforce the specific performance of the provisions hereof and to pursue any other remedy available under applicable law, including restitution of funds expended in derogation of the terms hereof.

11. No failure on the part of the Executors or the Attorney General of Virginia to exercise any right or to pursue any remedy shall operate as a waiver thereof, nor shall any single or partial exercise by them of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The acceptance by the Executors of any accounting showing the breach of any covenant or condition of this Agreement shall not be deemed a waiver of such breach.

12. The terms, covenants, and conditions contained in this Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

13. This Agreement shall be governed by the laws of the Commonwealth of Virginia and any action to enforce any right or obligation hereunder shall be subject to

the exclusive jurisdiction of the courts of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the Executors and the Board have executed
and delivered this Agreement as of the date written above.

Beverly Carter
Beverly Carter, Executor of
the Will of Paul Mellon

Frederick A. Terry, Jr.
Frederick A. Terry, Jr., Executor of
the Will of Paul Mellon

THE BOARD OF SUPERVISORS OF
FAUQUIER COUNTY, a body politic

By: Raymond E. Osburn

APPROVED AS TO FORM

W. J. Burt
COUNTY ATTY.

5/29/07
DATE

COMMONWEALTH OF VIRGINIA)
 : ss.:
COUNTY OF LOUDOUN)

I, Lisa Colbert, a notary public for the County of Loudoun,
in the Commonwealth of Virginia, do certify that BEVERLY CARTER, whose name as
an Executor of the Will of Paul Mellon is signed to the writing above bearing the date as
of the 5th day of June, 2007, has acknowledged the same before me in
the County aforesaid.

Given under my hand and seal this 5th day of June, 2007.

My term of office expires on the 31st day of August, 2007.

Lisa Denise Colbert
(Notary Public)

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

I, ANITA L. IZBICKI, a notary public for the County of New York, in the State of New York, do certify that FREDERICK A. TERRY, JR., whose name as an Executor of the Will of Paul Mellon is signed to the writing above bearing the date as of the 6th day of June, 2007, has acknowledged the same before me in the County aforesaid.

Given under my hand and seal this 6th day of June, 2007.

My term of office expires on the 24th day of April, 2011.

Anita L. Izlicki
(Notary Public)

ANITA L. IZBICKI
Notary Public, State of New York
No. 31-01214950305
Qualified in New York County
Commission Expires April 24, 2011

COMMONWEALTH OF VIRGINIA

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: ss.:

COUNTY OF FAUQUIER

I, Renee P. Andersen, a notary public for the County of Fauquier, in the Commonwealth of Virginia, do certify that Raymond E. Graham, whose name as Vice Chair of the Board of Supervisors of Fauquier County is signed to the writing above bearing date on the 30th day of May, 2007, has acknowledged the same before me in the County aforesaid.

Given under my hand and seal this 30th day of May, 2007.

My term of office expires on the 31st day of December,

2008.

Renee P. Andersen

(Notary Public)

Renee P. Andersen
NOTARY PUBLIC
Commonwealth of Virginia
My Commission Expires 12/31/08